

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

Clerk's Minutes
Before the Honorable James O. Browning

CASE No. **19CR77-JB**

DATE: **May 7, 2020**

TITLE: *USA v Nissen*

COURTROOM CLERK: **J. Wright**

COURT REPORTER: **R. Brazil**

COURT IN SESSION: 2:25PM-3:22PM

TOTAL TIME: 58 MINUTES

TYPE OF PROCEEDING: Second MOTION for Psychiatric/Psychological Exam [Doc. 137]

COURT RULING: **MOTION AND RULING HELD IN ABEYANCE**

ATTORNEYS PRESENT FOR PLAINTIFF(S): **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Paul Mysliwiec

Joe Romero

Alexander Uballez

PROCEEDINGS:

2:25PM COURT IN SESSION; COUNSEL ENTER APPEARANCES; DEFENDANT APPEARS IN CUSTODY.

2:25PM MR. ROMERO ARGUES HIS MOTION. DEFENDANT STATES DEFENSE COUNSEL DOESN'T HAVE HIS PERMISSION TO ARGUE THE MOTION BUT THEN CONSENTS TO MR. ROMERO PRESENTING HIS MOTION.

2:29PM DEFENDANT DISRUPTS THE PROCEEDINGS; COURT TRIES TO GET THE DEFENDANT TO UNDERSTAND THE PROCEEDINGS AND OFFERS TO LET HIM SPEAK LATER. DEFENDANT CONTINUES TO BE DISRUPTIVE; COURT ORDERS THE US MARSHALS TO REMOVE THE DEFENDANT FROM THE PROCEEDINGS. DEFENDANT IS REMOVED. DEFENSE COUNSEL CONTINUES THE PRESENTATION OF HIS MOTION.

2:37PM AS THE COURT PROMISED, COURT HAS DEFENDANT RETURNED TO THE COURTROOM TO SPEAK. DEFENDANT STATES HE HAS NO RESPONSE; DEFENSE COUNSEL DIDN'T HAVE

PERMISSION TO FILE THE MOTION. DEFENDANT IS SEATED.

- 2:38PM GOVERNMENT RESPONDS AND DOES NOT OBJECT TO DEFENDANT BEING SENT TO AN FCI FOR EVALUATION AND TREATMENT.
- 2:58PM PROBATION STATES DEFENDANT HAS BEEN IN CUSTODY 16 MONTHS AND 9 DAYS
- 3:01PM DEFENSE STATES DEFENDANT'S MENTAL HEALTH STILL CONCERNS HIM AND SHOULD BE SENT TO BUTNER.
- 3:03PM GOVERNMENT HAS TWO OBJECTIONS TO THE MOST RECENT PSR.
- 3:05PM COURT IS INCLINED TO TAKE THE MOTION UNDER ADVISEMENT AND IS INCLINED TO SEND THE DEFENDANT TO BUTNER FCI.
- 3:11PM COURT ASKS DEFENDANT IF HE WILL TALK TO DR. BROVKO AGAIN. DEFENDANT ALLOCUTES BUT DOES NOT GIVE A STRAIGHT ANSWER. DEFENDANT SAYS HE WILL SPEAK WITH DR. BROVKO AND WILL BE COOPERATIVE.
- 3:18PM COURT WILL HAVE DR. BROVKO RETURN TO EVALUATE THE DEFENDANT.
- 3:19PM COURT ORDER DR. BROVKO TO EVALUATE THE DEFENDANT. COURT WILL HOLD THE MOTION IN ABEYANCE UNTIL AFTER THE EVALUATION. DEFENSE COUNSEL WILL ADVISE COURTROOM DEPUTY AFTERWARD WHETHER A RULING ON THE MOTION IS NEEDED OR PROCEED TO SENTENCING.
- 3:21PM SENTENCING FOR TODAY IS VACATED AND WILL RESET AFTER THE EVALUATION.
- 3:22PM COUNSEL HAVE NOTHING FURTHER.
- 3:23PM COURT STANDS IN RECESS.